

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CULLEN M. HANKERSON,

Plaintiff,

v.

DEPARTMENT OF RISK  
MANAGEMENT, et al.,

Defendants.

CASE NO. C13-6036 BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 67), and Plaintiff Cullen Hankerson’s (“Hankerson”) motions to present newly discovered evidence (Dkts. 64 & 68), motion to order Defendants to send property to current location (Dkt. 70), motion for extension of time (Dkt. 73), and motion for a continuance (Dkt. 76).

On February 4, 2015, Judge Strombom issued the R&R recommending that the Court grant Defendants’ motion for summary judgment. Dkt. 67. On January 22, and February 5, 2015, Hankerson filed motions to present newly discovered evidence in support of a retaliation claim. Dkts. 64 & 68. On February 6 and 12, 2015, Defendants

1 responded. Dkts. 69 & 71. On February 9, 2014, Hankerson filed a motion to order  
2 Defendants to send property to his current location. Dkt. 70. On February 12, 2015,  
3 Defendants responded. Dkt. 72. On February 13, 2015, Hankerson filed a motion for  
4 extension of time to file objections. Dkt. 73. On February 26, 2015, Defendants  
5 responded. Dkt. 75. On March 2, 2015, Hankerson filed a motion for continuance of the  
6 summary judgment decision. Dkt. 76. On March 6, 2015, Defendants responded. Dkt.  
7 77.

8         In this case, the majority of Hankerson's motions fail for two fundamental reasons.  
9 First, Defendants are not in charge of Hankerson's detention location and do not have the  
10 ability to retaliate against Hankerson by reassigning Hankerson to a different institution.  
11 The Defendants in this action are the state Department of Risk Management and  
12 employees within that department. As such, neither the department nor its employees  
13 have authority over any correctional institution or decision. Therefore, the Court denies  
14 Hankerson's motions for the retaliation claims and the motion for an order to send  
15 property to the current location of confinement.

16         Second, Judge Strombom recommends granting summary judgment on the  
17 majority of Hankerson's claims because they fail as a matter of law. Dkt. 76. Thus, any  
18 extension of time or continuance to gather evidence is unnecessary. With regard to the  
19 two claims that should be dismissed for a lack of evidence, failure to fulfill ministerial  
20 duties and fraud, Hankerson fails to show how any of the evidence that he has requested  
21 will overcome the failures outlined in the R&R.  
22

1 Therefore, the Court having considered the R&R, Hankerson's motions, and the  
2 remaining record, does hereby find and order as follows:

- 3 (1) Hankerson's motions (Dkts. 64, 68, 70, 73, & 76) are **DENIED**;
- 4 (2) The R&R is **ADOPTED**;
- 5 (3) Hankerson's *in forma pauperis* is **REVOKED** for the purposes of appeal;
- 6 and
- 7 (4) This action is **DISMISSED**.

8 Dated this 10th day of March, 2015.

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11 BENJAMIN H. SETTLE  
United States District Judge

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